



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce Street  
Dallas, TX 75242

501.03-00

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Release Number: 201023059

Release Date: 6/11/10

LEGEND

ORG = Organization name XX = Date

Address = address

**ORG  
ADDRESS**

**Date:** March 15, 2010

**Person to Contact:**

**Badge Number:**

**Contact Telephone Number:**

**Contact Address:**

**Employer Identification Number:**

**Deadline to Petition Tax Court:**

**CERTIFIED MAIL**

Dear

This is a final notice of adverse determination that your exempt status under section 501(c) (3) of the Internal Revenue Code is revoked. Recognition of your exemption under Internal Revenue Code section 501(c)(3) is revoked effective January 1, 20XX the following reason(s):

You are not organized and operated exclusively for an exempt purpose as required by Internal Revenue Code section 501(c)(3). You are not and have not been engaged primarily in activities which accomplish one or more exempt purposes. You are not a charitable organization within the meaning of Treasury Regulation 1.501(c)(3)-1(d); rather, your activities further a substantial nonexempt commercial purpose and serve private rather than public interests.

Contributions to your organization are no longer deductible effective January 1, 20XX.

Since your exempt status has been revoked, you filed the required Form 1120, U.S. Corporation Income Tax Return, with us on November 25, 20XX for years ending December 31, 20XX; December 31, 20XX and December 31, 20XX.

Income tax returns for subsequent years are to be filed with the appropriate Service Center identified in the instructions for those returns.

It is further determined that your failure to file a written appeal constitutes a failure to exhaust your available administrative remedies. However, if you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia before the (ninety-first) 91st day after the date that this determination was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. To secure a petition form, write to the following address:

Please understand that filing a petition for a declaratory judgment under IRC section 7428 will

not delay the processing of subsequent income tax returns and assessment of any taxes due.

The last day for filing a petition for declaratory judgment is June 15, 20XX.

You also have the right to contact the Office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call and ask for the Taxpayer Advocate assistance or you can contact the Advocate from the site where this issue was determined by writing to:

Taxpayer Advocate assistance cannot be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

This letter should be kept within your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely,

Nanette M. Downing  
Acting Director, EO Examinations

Enclosures:  
Publication 892



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
Internal Revenue Service

ORG  
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Renee B. Wells  
Acting Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

<b>Form 886-A</b>	<b>EXPLANATION OF ITEMS</b>	<b>Schedule or Exhibit No. 1</b>
<b>Name of Taxpayer: ORG</b>		<b>Year Ended</b> 12/31/200XX

**LEGEND**

ORG = Organization name      XX = Date      Address = address      City = city  
State = State

**ADDENDUM**

**ISSUES:**

Whether the organization continues to qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

Whether the organization performs substantial exempt activity to warrant exemption.

**FACTS:**

ORG (ORG) was incorporated under the laws of the State of State on October 9, 200XX. In a determination letter dated April 3, 200XX ORG was determined to be exempt from federal income tax as an organization described in IRC Section 501(c)(3). The Organization is currently located at Address City, State.

In its Articles of Incorporation, ORG stated its purpose is "exclusively to create and operate a debt consolidation organization for educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 19XX."

In its application for exempt status, Internal Revenue Service Form 1023, ORG provided the following description of the Organization's activities:

"ORG (ORG) will spend the majority of time preparing and sending out proposals to creditors, on behalf of our consumers that enter into our Debt Retirement Program. Included in these proposals are: 1) The consumer's contact information, 2) consumer's debt information (i.e. total debt amount, debt owed to receiving creditor, proposed monthly payment/interest rate. By sending these proposals, we are notifying the creditor that the consumer wants to pay their total debt, but need help in doing so. We are able to negotiate a monthly payment amount, and yearly interest rate with the creditor, to help the consumer pay back the debt owed within their capability, thus avoiding bankruptcy.

ORG will also spend an equal amount of time working with our consumers by:

- 1) answering any questions they have regarding their accounts with creditors, including questions regarding newly negotiated interest rates, and monthly payments,
- 2) provide help dealing with any collection agencies that contact them. ORG also provides educational material to the consumer regarding how to use credit cards responsibly, and how to recognize, acknowledge, and work with a debt problem, including ways to be more financially responsible (please see attachment #1 for a sample of the material we pass out.)

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ORG's purpose is to work with creditors, on behalf of our consumers, in negotiating debt re-payment plans so that the consumer can repay their debt within their capabilities on a monthly basis, therefore avoiding bankruptcy, as well as providing educational material to consumers regarding financial and credit card responsibility."

Attachments included a Debt Retirement Application, Estimated Monthly Payment form, Debt Retirement Disclosure, and Limited Power of Attorney form, none of which were designated as Attachment #1.

ORG provides services to the public and is not limited to low-income individuals and families who have financial problems. ORG is a small operation currently being run out of the officers' home, as the office was closed in February, 200XX. The President and Secretary are the only employees, and they are husband and wife. The President has another full-time job, so is only available part-time. The Secretary is also available only part-time.

Advertising for ORG services was on Spanish speaking radio. Income was derived from fair share contributions (33%) and fees (67%) charged to clients. The examination revealed no monitory public support.

Records of clients participating in the debt management program were the only records kept. No records of referrals to other agencies were kept. No follow-up contact was noted.

Cook-outs in local parks accounted for outreach programs. Attendance was dependent upon people gathering for the food and staying for a presentation, participating in individual counseling, or taking printed materials. No records were kept of number of attendees or effectiveness of the outreach programs.

Pamphlets and booklets addressing credit issues were on hand. However, this material was no longer readily available since walk-ins are not possible. There is no mass mailing, but leaflets are periodically distributed on parked car windshields at the discount mall in City and at other locations.

The only counseling now possible is by telephone, as prospective clients were not invited to the home. The Agent had difficulty reaching the EO by telephone as the EO's telephone was not answered. Therefore, if the Agent could not reach the EO, neither could a client for counseling.

**LAW:**



Form 886-A	EXPLANATION OF ITEMS	Schedule or Exhibit No. 1
Name of Taxpayer: ORG		Year Ended 12/31/200XX

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable or educational purposes no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.6033-1(h)(2) of the regulations provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the District Director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

In Better Business Bureau v. United States, 326 U.S. 279 (1945), the United States Supreme Court held that regardless of the number of truly exempt purposes, the presence of a single substantial non-exempt purpose will preclude exemption under section 501(c)(3)

#### GOVERNMENT'S POSITION:

The IRC § 501(c)(3) tax exempt status of ORG should be revoked effective January 1, 200XX, because it is not operated exclusively for tax exempt purposes.

There are two basic requirements for an organization to be exempt from federal income tax under section 501(c)(3). A 501(c)(3) organization must be organized and operated exclusively for one or more exempt purposes.

An organization exempt under § 501(c)(3) of the Internal Revenue Code must be organized as a corporation (including a limited liability company), trust, or unincorporated association. The organizing document (articles of incorporation if the organization is a corporation, articles of organization if a limited liability company, trust agreement or declaration of trust if a trust) must limit the organization's purpose(s) and permanently dedicate its assets to exempt purposes.

Providing a program for consolidation of debt payments with lower interest rates for clients and a convenient debt collection service for creditors are not inherently charitable and educational activities in and of themselves. The debt management program provided by the company was not incidental to a primary educational program. Rather the educational program is incidental to the primary purpose of operating a debt management and adjusting service. In *Better Business Bureau*, in spite of good intentions, the organization did not qualify for exemption under IRC 501(c)(3) because of a substantial nonexempt purpose. ORG has the substantial non-exempt purpose of providing a debt collection service for creditors and a bill paying services for its clients. This operation is clearly distinguished from that described in Consumer Credit Counseling Service of State since the primary purpose appears to be maximizing the number of people enrolled in the debt management plan rather than educating them.

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Given the nature of the DMPs described above, ORG's exempt status should be revoked due to its operation for the substantial nonexempt purpose of providing a debt collection and bill paying service.

**TAXPAYER'S POSITION:**

The Taxpayer has provided no position as of the date of this report.

**CONCLUSION:**

It is the Internal Revenue's position that ORG. failed to meet the requirements for an organization described in Internal Revenue Code § 501(c)(3) and exempt from tax under section 501(a).

Based on the exempt activity of ORG as set out in its Articles there is no substantial exempt activity being performed.

Based on the above ORG's exempt status is hereby revoked effective January 1, 200XX.

Form 1120 returns should be filed for the tax periods ending on or after December 31, 200XX.